

FILED
SUPREME COURT
STATE OF WASHINGTON
7/24/2025 3:41 PM
BY SARAH R. PENDLETON
CLERK

Supreme Court No. 104317-1
COA No. 39421-2-III

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,
Plaintiff/Respondent

v.

YASIR DARRAJI,
Defendant/Petitioner.

ANSWER TO DEFENDANT'S PETITION FOR REVIEW

PRESTON MCCOLLAM
Acting Official Prosecuting Attorney

Alexis M. Lundgren
Deputy Prosecuting Attorney
Attorneys for Respondent

County-City Public Safety Building
West 1100 Mallon
Spokane, Washington 99260
(509) 477-3662

INDEX

I. INTRODUCTION.....	1
II. IDENTITY OF PARTY	3
III. STATEMENT OF RELIEF SOUGHT.....	3
IV. ISSUES PRESENTED	3
V. STATEMENT OF THE CASE.....	5
Facts Obtained During Murder Investigation	6
Motive Evidence Produced at Trial.....	11
Verdict & Sentencing	20
Appeal	20
VI. ARGUMENT	24
A. DIVISION THREE PROPERLY FOUND NO PROSECUTORIAL MISCONDUCT OCCURRED BECAUSE ALL CHALLENGED STATEMENTS WERE BASED ON EVIDENCE THAT MS. DARRAJI'S CHANGING LIFESTYLE WAS THE MOTIVE FOR THE MURDER.....	24
B. DIVISION THREE PROPERLY DECLINED REVIEW OF THE HEARSAY CHALLENGES BECAUSE THEY WERE NOT PRESERVED BELOW AND WERE INADEQUATELY BRIEFED ON APPEAL.	33

C.	DIVISION THREE PROPERLY FOUND MR. DARRAJI FAILED TO PRESERVE OR ADEQUATELY BRIEF HIS RULE-BASED SPEEDY TRIAL CLAIM.	41
D.	DIVISION THREE PROPERLY DECLINED REVIEW OF THE UNPRESERVED AGGRAVATOR UNANIMITY ISSUE WHERE MR. DARRAJI DID NOT ESTABLISH A MANIFEST CONSTITUTIONAL ERROR.	42
E.	DIVISION THREE PROPERLY FOLLOWED THIS COURT’S DECISION THAT AGGRAVATING FACTORS ARE NOT SUBJECT TO VAGUENESS CHALLENGES.	43
F.	REVIEW OF MR. DARRAJI’S JUDICIAL FACT-FINDING CLAIM IS MOOT BECAUSE RESENTENCING IS REQUIRED.	45
G.	DIVISION THREE PROPERLY DENIED MR. DARRAJI’S CLAIM THAT THE INFORMATION WAS DEFECTIVE AS TO THE AGGRAVATOR.	45
VII.	CONCLUSION.	46

TABLE OF AUTHORITIES

Federal Cases

Counterman v. Colorado, 600 U.S. 66 (2023)..... 22

State Cases

State v. Bagby, 200 Wn.2d 777, 522 P.3d 982
(2023) passim

State v. Baldwin, 150 Wn.2d 448, 78 P.3d 1005
(2003) 4, 21, 44

State v. Brush, 5 Wn. App. 2d 40, 425 P.3d 545
(2018) 44

State v. Darraji, No. 39421-2-III, Slip Op.
(Wash. Ct. App. May 22, 2025) passim

State v. DeVore, 2 Wn. App. 2d 651, 413 P.3d 58
(2018) 44

State v. Dhaliwal, 150 Wn.2d 559, 79 P.3d 432
(2003) 32

State v. Lloyd, 3 Wn. App. 2d 1060,
2018 WL 8642839 (unpublished) 44

State v. Parr, 93 Wn.2d 95, 606 P.2d 263 (1980)..... 36

State v. Stein, 144 Wn.2d 236, 27 P.3d 184 (2001) 39

State v. Walker, 199 Wn.2d 796, 513 P.3d 111
(2022) 42

<i>State v. Zamora</i> , 199 Wn.2d 698, 512 P.3d 512 (2022)	31
--	----

State Rules

CrR 3.3	42
ER 107	34
ER 404	35, 37
GR 14.1	44
RAP 13.4	passim

I. INTRODUCTION

In 2020, Yasir Darraji fatally strangled his ex-wife, Ibtihal Darraji, doused her in gasoline in her vehicle, and lit her on fire. Friends and others who knew her told police they believed the murder was an honor killing, motivated by Ms. Darraji's increasingly non-traditional behavior since immigrating to the United States from Iraq. At trial, both the State and defense relied on theories that Ms. Darraji's behavior was the motive for her murder—the State argued Mr. Darraji killed her because of her choices to divorce him, not cover her head, drive, work, drink alcohol, and convert to Christianity, and the defense suggested another suspect, Saad al Karawi, killed her because she attacked him with a shoe in public just weeks before her death. After his second degree murder conviction, Division Three affirmed.

This Court should decline review. As Division Three properly held, even under the heightened standard for

accusations of race-based prosecutorial misconduct, no error occurred. The State's theory and argument was based on direct and circumstantial evidence admitted at trial for the purpose of establishing in a case with no direct eyewitnesses to the crime that it was Mr. Darraji who killed Ms. Darraji and that he did so because, in his own words, she was changing in a way that "did not fit with his rituals and culture." Mr. Darraji's argument that both the police and State manufactured this motive evidence simply based on stereotypes is unsupported by the record. Further, this case presents a poor vehicle for settling a debate about whether to apply the race-based misconduct standard where even under such a standard no error occurred.

Review is also not warranted for the other issues Mr. Darraji raises because Division Three properly held they were either unpreserved, moot, or not adequately briefed on appeal.

The State respectfully requests this Court deny review.

II. IDENTITY OF PARTY

The State was the plaintiff in the trial court and the respondent in the court of appeals.

III. STATEMENT OF RELIEF SOUGHT

The State seeks denial of Mr. Darraji's petition for review of the opinion issued by Division Three of the Court of Appeals on May 22, 2025.

IV. ISSUES PRESENTED

1. Did Division Three properly find that, even under the heightened test for claims of race-based prosecutorial conduct, Mr. Darraji failed to show any error occurred where the challenged statements were based on evidence that Ms. Darraji's non-traditional lifestyle changes were Mr. Darraji's motive for murdering her?
2. Did Division Three properly decline review of Mr. Darraji's evidentiary claims related to admission of testimony about

Ms. Darraji's fear where the issues raised on appeal were different than the objections made in the trial court and the appellate briefing failed to address prejudice?

3. Did Division Three properly decline to review Mr. Darraji's rule-based speedy trial claim where he failed to timely object at trial and provided no speedy trial calculation on appeal?
4. Did Division Three properly decline review of Mr. Darraji's jury unanimity issue related to the sentencing aggravator where he did not raise that issue below and on appeal failed to establish a manifest constitutional error?
5. Did Division Three properly decline review of Mr. Darraji's claim that the sentencing aggravator was unconstitutionally vague where it was bound by this Court's decision in *State v. Baldwin*, 150 Wn.2d 448, 78 P.3d 1005 (2003), which held sentencing aggravators are not subject to vagueness challenges?

6. Did Division Three properly decline to address Mr. Darraji's claim that his exceptional sentence was based on improper judicial fact finding where the issue was moot following reversal of the harassment conviction and the issue may be addressed at resentencing?
7. Did Division Three properly find Mr. Darraji's claim, made for the first time in his statement of additional grounds for review, that the information was defective as to the sentencing aggravator where he cited no applicable authority in support of his argument?

V. STATEMENT OF THE CASE

On January 30, 2020, Ibtihal Darraji's body was found burning in her vehicle in a parking lot in Spokane. Cox RP ("RP") 827-30, 877, 1249. An investigation revealed she had been fatally strangled before her face was doused in gasoline and lit on fire. RP 921-22, 934, 942, 1029, 1044, 1249. Yasir

Darraji, Ms. Darraji's estranged ex-husband, was the last person known to have seen her alive. RP 730, 762-63, 1290-93, 1811-12; Dashiell RP ("2RP") 173-74.

Facts Obtained During Murder Investigation

Mr. and Ms. Darraji were born in Iraq and came to Spokane as refugees in 2014 after Mr. Darraji's work for the U.S. military resulted in threats to his safety. RP 2027-35, 2092. After Ms. Darraji's murder, witnesses—who were also originally from Iraq but had immigrated to the United States and knew Ms. Darraji—contacted police, claiming Mr. Darraji had committed an "honor killing" when he took Ms. Darraji's life. CP 2. The lead detective included this information in his affidavit of facts, before providing a definition of "honor killing" from Wikipedia:

Your affiant has been contacted by witnesses who are from Iraq but currently reside in the United States. These witnesses [k]new Ibtihal while she lived in Spokane. They are familiar with Iraqi

culture and community. The witnesses claim they have reason to believe that Yasir Darraji committed an “honor killing” when he took Ibtiha Darraji’s life.

Below is a definition for honor or shame killing from Wikipedia...

An honor killing or shame killing is the murder of a member of a family, due to the perpetrators’ belief that the victim has brought shame or dishonor upon the family, or has violated the principles of a community or a religion with an honor culture. Typical reasons include divorcing or separating from their spouse, refusing to enter an arranged, child or forced marriage, being in a relationship or having associations with social groups outside the family that is strongly disapproved by one’s family, having premarital or extramarital sex, becoming the victim of rape or sexual assault, dressing in clothing, jewelry and accessories which are deemed inappropriate, engaging in non-heterosexual relations or renouncing a faith.

CP 2-3 (underlining in original). The detective then outlined in that same affidavit of facts all the information from various sources that led him to believe Ms. Darraji’s death was the result

of an honor killing (though much of the information was not later admitted at trial for a variety of evidentiary reasons):

February 28, 2016: Ms. Darraji's sworn declaration filed in Spokane County Superior Court (CP 4-5)

- When they arrived in the United States, Mr. Darraji would not allow Ms. Darraji to learn English, obtain a driver's license, or get a job. He told her she did not deserve to drive and hit her when she asked if she could get a job.
- Mr. Darraji repeatedly told Ms. Darraji she "had no rights," and days before she filed this declaration, he told her he was "preparing big trouble for her and was digging a big hole for her."
- Mr. Darraji tried to take compromising photographs of Ms. Darraji, specifically of her not covering her hair and of wearing a cross necklace, to send to their family in Iraq. Ms. Darraji said Mr. Darraji knew this would anger their family in Iraq.
- Ms. Darraji said Mr. Darraji threatened to send their two children back to Iraq, and that he had instructed his family to kill Ms. Darraji if she ever tried to recover the children from them. Ms. Darraji said it would be very easy for someone to murder her in Iraq and that it would be likely the murder would not be investigated or even reported.

December 10, 2018: Records from United States Embassy in Iraq (CP 7, 11)

- An unnamed person contacted the United States Embassy in Iraq and reported that his/her friend, Ms. Darraji, was in Iraq and was in danger because Mr. Darraji had threatened her life.

December 29, 2018: Ms. Darraji's report to Spokane Police Department (CP 7, 11)

- Ms. Darraji reported she had recently visited her family in Iraq, and that while there, Mr. Darraji called her family to apprise them of Ms. Darraji's alleged inappropriate behavior in the United States. Ms. Darraji stated Mr. Darraji's motive was to harm her reputation with her family. Upon receiving the information, Ms. Darraji's family forced her at gunpoint into a bedroom, took her passport, and locked her there for two days. Ms. Darraji escaped and, with help from others, contacted the United States Embassy, obtained another passport, and returned to Spokane.
- When Ms. Darraji arrived in Spokane, Mr. Darraji told her if she reported the incident in Iraq to local police, she would disappear from the earth.

August 2019: Report from Zinah Shaker (CP 8)

- Ms. Shaker reported she went to a nightclub with Ms. Darraji and Gulbahar Suwaed, another friend. When they observed Mr. Darraji was also there, Ms. Darraji fled the nightclub. Ms. Darraji was fearful Mr. Darraji would tell her family in Iraq that she had gone to a nightclub.

January 2, 2020: Ms. Suwaed's interaction with Mr. Darraji (CP 9)

- Ms. Suwaed stated Ms. Darraji occasionally started to go to nightclubs and that this angered Mr. Darraji. She stated that though the couple was divorced, in Iraqi culture, an ex-wife's lifestyle can still bring shame to an ex-husband. Ms. Suwaed asked Mr. Darraji to stop calling Ms. Darraji's family in Iraq and spreading rumors.

January 5, 2020: Hamid Nahi's interaction with Ms. Darraji
(CP 10)

- Mr. Nahi stated he spoke with Ms. Darraji after Mr. Darraji had her sign some divorce paperwork that he misrepresented and Ms. Darraji ended up signing all her parental rights away. Mr. Darraji started reporting to their family in Iraq that Ms. Darraji was having an affair and using alcohol and drugs, and told everyone that she had converted to Christianity.

January 28, 2020: Zainab Jameel's interaction with Ms. Darraji (CP 11)

- Ms. Darraji told Ms. Jameel that Mr. Darraji had been calling Ms. Darraji's mother and telling her that Ms. Darraji was drunk every day, smoking marijuana, and that she was a bad mother.

January 30, 2020: Zinah Shaker's statements (CP 11-12)

- Ms. Shaker stated that when the family in Iraq learns that Mr. Darraji was charged with murdering Ms. Darraji, they will support him because she was the one to blame for bringing shame on the entire family.

Saad al Karawi's statements (CP 14-16)

- Mr. al Karawi stated when he first met Ms. Darraji, she was “covered and all clean, neat and a believing lady basically.” He later heard that Ms. Darraji was putting on makeup, using Snapchat, and that she “had kind of gone from ‘pure to dirty’ and that she had a bad reputation.” He said Ms. Darraji “was like a 16-year-old that had just found freedom.”

January 31, 2020: Interview with Mr. Darraji (CP 18-22)

- Mr. Darraji explained that while he was out of town for work, his friend called him and told him Ms. Darraji had asked him for a ride to World Relief because she needed her picture retaken for her green card. Mr. Darraji stated he was ashamed Ms. Darraji had done this without telling him and that it would have brought shame on him if he admitted to his friend that he did not know what Ms. Darraji was talking about, so he lied to his friend and told him he was aware of the issue and thanked him for giving Ms. Darraji a ride.
- An hour later, Ms. Darraji called Mr. Darraji to tell him she wanted a divorce. She told Mr. Darraji someone had told her that she would be a “free woman and that nobody would be in charge of her,” that she would have full custody of the children, a free house, child support, and a better life. Mr. Darraji stated he knew Ms. Darraji did not fully understand because she was like a child.
- Mr. Darraji stated Ms. Darraji began to do bad things after the divorce, like using marijuana and alcohol and “‘badder’ things like the sex stuff.” He said she was having extramarital sex and that her family in Iraq would “of course” not like that.

Motive Evidence Produced at Trial

At trial on charges of second degree murder by strangulation and harassment threat to kill, the State—without ever using the term “honor killing”—submitted testimony and exhibits demonstrating that Ms. Darraji’s lifestyle changes after

moving to the United States motivated Mr. Darraji to kill her. CP 132-33, 427; *see generally* RP 298-2279; 2RP 1-198. For example, numerous witnesses testified that before the divorce, Ms. Darraji covered her hair, did not smoke, drink alcohol, go to nightclubs, drive, go to church, or have a job, but that after the divorce, some observed or heard rumors that she stopped covering her hair, and began smoking, drinking, going to bars, driving, working, and attending a Christian church, and that these lifestyle changes would be considered serious problems in the Iraqi community:

- Zainab Jameel (Ms. Darraji’s friend) testified Ms. Darraji did not cover her hair, smoke, drink, go to nightclubs, go to church, have a job, or drive when she was married, but that after the divorce her behavior “changed, like, from one to one hundred,” with Ms. Darraji going to bars, drinking, smoking, getting a job, learning to drive, and becoming “[n]ot Americanized, but ... aware.” RP 733-34. Just before Ms. Darraji died, Ms. Jameel heard rumors that Ms. Darraji was pregnant, and stated that this would impact both her (Ms. Darraji’s) and Mr. Darraji’s reputation. RP 740.

- Haydar Hussein (Mr. Darraji’s friend) testified he saw Ms. Darraji drinking at a nightclub, which he stated was not unacceptable though it was not part of Muslim traditions or customs, but he admitted to attempting to cheer Mr. Darraji up after he learned of it. RP 788-89, 793-94.
- Sajida Nelson (an employee with World Relief who worked with the Darrajis when they arrived in Spokane) stated she believed Ms. Darraji may have smoked cigarettes before the divorce, but that she did not drink, go to nightclubs, or have a job. Ms. Nelson also believed Ms. Darraji began attending a Christian church and not covering her hair before the divorce. RP 1142-43.
- Hamid Nahi testified that in January 2020, Ms. Darraji was concerned about rumors circulating that she had converted to Christianity, was smoking methamphetamine, going to nightclubs, drinking alcohol, and dating—behaviors that would justify her killing in Iraq. RP 1534-37.
- Allen Anwar al Sharaf (Mr. Darraji’s friend) testified he heard Ms. Darraji was going to nightclubs and had a relationship with someone, information he considered “rumors because the[y] are not common things for a woman in the community.” RP 1647, 1653-54.
- Khulood Ameri testified she heard rumors Ms. Darraji drank and went to nightclubs and went out with “the people that [we]re inappropriate.” RP 1670.

- Saad al Karawi (Mr. Darraji’s friend) testified Ms. Darraji confronted and attacked him with Ms. Suwaed at Winco in January 2020, hitting him with a “slipper” because she believed he was spreading rumors that she was having extramarital sex and stated “of course” such a rumor would be a “pretty serious accusation,” explaining that “any person that if something touches their reputation, that’s serious.” RP 1704-05, 1711. Mr. al Karawi stated Mr. Darraji said he would “hire two sheikhs back in Iraq, and they will have the trial, the tribal trial ... to teach [Ms. Darraji and Ms. Suwaed] a lesson” for attacking Mr. al Karawi at Winco, but Mr. al Karawi was not interested. RP 1709, 1713, 1718.
- Gulbahar Suwaed, who was first close to Mr. Darraji but then became good friends with Ms. Darraji, testified Mr. Darraji had told her (and other friends) Ms. Darraji was not a good person because she drank, smoked “marijuana,” went out, met “a lot of guys and all that stuff,” which were a “bad thing in [her] culture.” RP 1737, 1743-45, 1779, 1856-57. She also stated that the rumors about Ms. Darraji in January 2020 included that she was pregnant, went to bars, and drank, which would be “a big deal” in her culture. RP 1777, 1779-80. She testified Mr. Darraji told her that Ms. Darraji knows he gets “really mad when someone ... ignore[s] him or leave[s] him.” RP 1770.
- Husamaldeen Suwaed (Mr. Darraji’s friend) testified there were rumors about Ms. Darraji having extramarital relations with other men, though not about her drinking, and that these rumors would be a big deal in Iraq, but the consequences would depend on the family—some might

forgive her, though there were tribal laws against what she was doing. RP 1889, 1893-97. He did not believe these rumors would reflect on Mr. Darraji because he was living in the United States, but confirmed it would have been different if it occurred in Iraq. RP 1896-97.

- Karrar Alkadimi (Mr. Darraji’s friend) testified that before the divorce, Ms. Darraji “was a respectful woman” who had a car and could come and go, but after the divorce, “[s]he chose drinking,” “to sleep with several people and have sex,” (which he apologized for saying in front of Mr. Darraji) and using drugs and smoking “weed.” 2RP 141, 144.
- Zinah Shaker (Ms. Darraji’s friend) testified Ms. Darraji wanted to leave a bar in Spokane because she saw Mr. Darraji there and “he wouldn’t want her going out.” 2RP 155, 160-61. She also testified Mr. Darraji stated the way Ms. Darraji was changing did not “fit with his rituals and culture.” 2RP 165-66.

In his interview, which was admitted at trial, Mr. Darraji told the detective that Ms. Darraji had been told she could be a free woman if she divorced him, that nobody would be “in judge” of her, and that she would have full custody of the children and receive child support and alimony. Ex. P122 at 15-16. However, Mr. Darraji said Ms. Darraji was childlike, and when she moved

to the United States, she took “the freedoms wrong,” using them “to hurt people or to fight the people ... because she know the law with a woman.” Ex. P122 at 15-16, 34; RP 1285. He stated she would be better off in Iraq. Ex. P122 at 34.

At trial, Mr. Darraji himself testified that Ms. Darraji “understood the freedom here incorrectly,” asking why she would “need freedom if [he] didn’t even put boundaries around her,” stating they went out, she had her own car, and would send money to her family in Iraq. RP 2040-41. He also testified that during a meeting at a hookah bar with Ms. Suwaed and Ms. Darraji, he was satisfied because the meeting resulted in Ms. Suwaed hearing what he wanted her to hear, which was that Ms. Darraji “became [an] unbeliever of God.” RP 2066. And while he contradicted himself by stating her becoming Christian did not bother him, he stated he told her not to take the children with her to church. RP 2063.

The State also produced (both to show the effect on the listener for motive purposes for the murder charge and also as part of demonstrating Ms. Darraji's subjective fear following Mr. Darraji's atypical silence after receiving the message for the harassment charge, *see* CP 74-75, 262-64; 2RP 211, 687-90, 697-98, 700-01, 751-58) the following (translated) redacted voice message sent from Ms. Darraji to Mr. Darraji just three days before her death after she discovered the rumors about her had reached family in Iraq:

From your nose – I will draw you from your nose. (Unintelligible) you'll get back to Iraq and I won't. I'm not leaving here. I will be a heavy load on your chest – a load on your chest because I have nothing else better to do. I'll just sit here. Right, what was about (unintelligible) in America? I will destroy you, and you'll say nothing. I will humiliate you, and you'll say nothing. I will shove my shoe down your throat, and you'll say nothing. This is what you deserve, okay? I used to not shame you. Not say anything wrong in front of anyone; your friends and mine. No. Now I will control when you can stand up and when you can sit down. Humiliate you in front of anyone. I will emasculate you with my shoe

and not say (unintelligible). With my shoe, you trash. My old shoe is worth your life when I divorce you. Worth your life – worth your life. There’s no one (unintelligible) divorced by his wife. What I did – Your wife (unintelligible). Not a single woman paid attention to you after me, and no one took you in. You used to go to her and feed each other trash. That bitch. My shoe is worth your life – worth your life and I’ll humiliate you (unintelligible) and you’ll say nothing, and you should be grateful. My dear, I will burden you. (Unintelligible), I will burden you, and I will break your dignity. You were broken before, so why say anything else? Okay? I will break your dignity and have you walking with your tail tucked in, (unintelligible). You’re the one who benefitted. Walking while (unintelligible). Just wait – you just wait.

Ex. 100, 101; RP 699-700, 1671, 1675, 1695, 1920-21; 2RP 171.

A linguist testified the use of the word “shoe” was the “ultimate insult” in Iraq. RP 1901-04, 1922.

Though Mr. Darraji claimed he was not upset by this message since Ms. Darraji had previously sent him similar messages, the State produced evidence that within minutes of receiving the message, he forwarded it to his friend Ms. Ameri

and called her crying. RP 1671, 1675. This was the only message like this that Mr. Darraji had ever sent Ms. Ameri. RP 1675-76, 1695, 1962-63.

On the date of her death, Mr. Darraji admitted Ms. Darraji had come to his apartment to retrieve their son, and that they fought and she told him he was not a “real man.” RP 1290-91. Though no eyewitnesses to the murder testified, the trial evidence indicated Mr. Darraji strangled Ms. Darraji there, in her car outside his apartment, and that their children likely saw the strangulation when they exited the apartment to see why Ms. Darraji was honking the horn. RP 762-63, 1290-92, 1811-12, 1974, 2079, 2117-18; 2RP 174; Ex. P121. When asked about Ms. Darraji telling him he was not a real man, Mr. Darraji responded, “But thank God I am a man.” RP 2114.

Verdict & Sentencing

After a jury found Mr. Darraji guilty on both counts, the trial court sentenced him to an exceptional sentence of 300 months on the murder conviction (an upward deviation of 56 months from the high-end of 244 months) based on the jury's special finding that the crime involved a destructive and foreseeable impact on persons other than the victim. RP 2239-40, 2262-65; CP 417-24, 441-43.

Appeal

Division Three of the Court of Appeals affirmed the murder conviction, holding: (1) even under the heightened standard for allegations of race-based prosecutorial misconduct, the prosecutor did not commit error because the prosecutor's comments were based on evidence that the escalating conflict between the Darrajis and the eventual murder resulted from Ms. Darraji's lifestyle choices that departed from traditional Iraqi customs; (2) the rule-based speedy trial challenge was not

preserved by a timely objection or adequately briefed with a speedy trial calculation on appeal; (3) the claims that evidence of Ms. Darraji's fear, her voicemail to Mr. Darraji, and the Iraqi consequences of her behavior were irrelevant and prejudicial were either not preserved below or inadequately argued on appeal; (4) the jury unanimity challenge to the aggravator was not preserved and did not constitute a manifest constitutional error; and (5) vagueness challenges to aggravators were precluded by *Baldwin*, 150 Wn.2d 448. *State v. Darraji*, No. 39421-2-III, slip op. at 20-51 (Wash. Ct. App. May 22, 2025), available at https://www.courts.wa.gov/opinions/pdf/394212_pub.pdf.

The court accepted the State's concession that insufficient evidence supported the harassment conviction. Slip op. at 35. As the State explained, it originally believed Ms. Suwaed would testify that she had communicated Mr. Darraji's threat that he

would kill Ms. Darraji if it took him ten years to Ms. Darraji, but at trial, Ms. Suwaed did not testify as expected, stating she did not tell Ms. Darraji about the threat because Ms. Darraji already knew of it. RP 715, 1779-80, 1805-06 (though not admitted at trial due to a sustained objection, Ms. Suwaed stated Mr. Darraji had communicated the threat himself), 1846-47, 2192; Resp. Br. at 7, 47, 66.¹ The court declined to address Mr. Darraji's other sentencing claims, noting Mr. Darraji could raise them in the trial court on remand for resentencing. Slip op. at 35-37, 38-39, 52.

The court also rejected Mr. Darraji's claim, made for the first time in a statement of additional grounds for review, that the information was defective with regard to the aggravator because

¹ Notably, the harassment charge likely would have been reversed on jury instruction grounds had it not lacked sufficient evidence, as the United States Supreme Court's decision in *Counterman v. Colorado*, 600 U.S. 66 (2023), was issued after the trial in this case.

it did not identify the “persons other than the victim” affected by the crime, finding he failed to cite any authority to support his argument. Slip op. at 52-54.

The Honorable George Fearing dissented, addressing only the prosecutorial misconduct claim. He found that “evidence concerning Iraqi culture and Islam, Yasir Darraji’s upbringing in Iraq, Ibtihal Darraji’s change in lifestyle, and Ibtihal’s conversion to Christianity held relevance to the prosecution,” but that the State did not present its evidence as “selectively, thoughtfully, and carefully” as it should have to avoid turning the trial into “a contest between American culture and Christianity, on the one hand, and Iraqi culture and Islam, on the other hand.” *Darraji*, slip. op. at 1-2 (Fearing, J., dissenting) [hereinafter “*Dissent*”]. Judge Fearing would have reversed the case despite his agreement that “overwhelming evidence supported the conclusion that Darraji murdered his [ex-]wife,” and therefore

did not address any of Mr. Darraji's other claims. *Dissent* at 22-23.

Mr. Darraji now petitions this Court for review.

VI. ARGUMENT

This Court should deny review because Mr. Darraji fails to establish review is warranted under RAP 13.4(b).

A. DIVISION THREE PROPERLY FOUND NO PROSECUTORIAL MISCONDUCT OCCURRED BECAUSE ALL CHALLENGED STATEMENTS WERE BASED ON EVIDENCE THAT MS. DARRAJI'S CHANGING LIFESTYLE WAS THE MOTIVE FOR THE MURDER.

Disagreeing with Division Three, Mr. Darraji claims the State committed prosecutorial misconduct by "manufacturing" its theory that Mr. Darraji's motive to kill Ms. Darraji stemmed from her lifestyle changes that diverged from traditional Iraqi customs and that this is a significant constitutional issue warranting this Court's review under RAP 13.4(b)(3). Pet. at 3-4, 23-34. In doing so, he also accuses law enforcement of

investigating Ms. Darraji's murder as an honor killing based solely on her connection to the Iraqi community in Spokane and a Wikipedia definition of the term. Pet. at 2. But this argument both mischaracterizes law enforcement's investigation in this case, and appears to object to the State eliciting direct and circumstantial evidence in support of its trial theory and making reasonable inferences based on that evidence.

Contrary to his argument, law enforcement did not simply assume Ms. Darraji's murder was an honor killing because she was part of the Iraqi community, but came to that conclusion based on multiple witness statements. As outlined above, members of the Iraqi community in Spokane told law enforcement they believed her murder was an honor killing. Law enforcement recovered Ms. Darraji's own declaration, recounting Mr. Darraji telling her she had no rights, did not deserve to drive, was not allowed to have a job, and that he

attempted to take compromising photographs of her without a headscarf and wearing a cross necklace.

Law enforcement also noted Ms. Darraji's police report detailing her kidnapping in Iraq, which resulted from Mr. Darraji reporting to her family that her conduct in the United States was unacceptable. Other individuals provided additional information to law enforcement that Mr. Darraji told Ms. Darraji's family in Iraq that she was having an affair, using drugs and alcohol, and had converted to Christianity—behavior that was not customary and would bring shame on both Mr. Darraji and the family.

The idea that law enforcement stereotyped Mr. Darraji as an individual who would commit an honor killing based on his connection to the Iraqi community is unfounded. Police were guided by the evidence coming directly from individuals within the Iraqi community who knew the Darrajis.

The same is true of the State's presentation at trial. The State did not manufacture its theory of the case based on stereotypes, but on direct and circumstantial evidence that even the dissenting judge agreed was relevant to establish the motive for the crime. *See Dissent* at 1.

While Mr. Darraji claims this Court should accept review of this issue under RAP 13.4(b)(3) to foreclose further debate as to whether the heightened standard for race-based prosecutorial misconduct applies to claims where religion and culture are intertwined with ethnicity, Pet. at 5, 20-21, this case is a poor vehicle for such a debate for several reasons.

First, even under the race-based prosecutorial misconduct standard, Mr. Darraji cannot demonstrate error. In *State v. Bagby*, 200 Wn.2d 777, 794, 522 P.3d 982 (2023), this Court outlined the relevant factors to determine whether a prosecutor's conduct apparently appealed to racial bias. Those factors include

“the content and subject of the statements, the frequency of the remarks, the apparent purpose of the statements, and whether the comments were based on evidence or reasonable inferences in the record.” *Id.*

Here, as it relates to the first two *Bagby* factors, the challenge does not appear to be simply to one or two select comments from the prosecutor, but an objection (made for the first time on appeal) to the entire trial theory and the admission of testimony and exhibits in support of that theory. But as discussed above, the State’s theory was based on evidence received from multiple individuals who knew the Darrajis and were familiar with the cultural differences between their community in Iraq and the United States, rendering the premise for this challenge both not borne out by the record, but also falling outside the typical understanding of a prosecutorial misconduct allegation, in that it questions the police

investigation's conclusions as a prerequisite to the misconduct claim.

Had this been a case in which the police identified Mr. Darraji as an Iraqi man and concluded on that basis alone that the murder of his wife was an honor killing, the State would agree the conclusions were based on stereotypes and that pursuing such a theory at trial would be prosecutorial misconduct. Under *Bagby*'s factor test, the use of stereotypes, unsupported by the evidence, would be a clear appeal to racial bias.

But that is not what happened in this case. Here, based on evidence from numerous witnesses including Mr. Darraji, the police concluded the murder was an honor killing. The State proceeded to trial on that evidence in support of its theory that Ms. Darraji's lifestyle changes, including not just a conversion to Christianity, but also changes in dress, going to bars, drinking

alcohol, and extramarital sex, upset Mr. Darraji because they did not fit with his culture and motivated the murder. Even with respect to the photograph of the Darraji's daughter bowed in prayer in traditional dress, though the State did not later explicitly connect the photograph to its theory, the photograph was not unrelated to the case, but was taken by Mr. Darraji around the time of Ms. Darraji's attack on Mr. al Karawi at Winco, and is also not offensive or even particularly notable. Contrary to Mr. Darraji's argument, which implicitly assumes that an image of a woman praying in traditional dress is somehow offensive or unusual, that image is not uncommon and was merely cumulative of the other evidence at trial that Ms. Darraji's non-traditional lifestyle choices were a source of conflict between her and Mr. Darraji. The evidence was properly introduced to establish motive and was based on evidence, as required by the third and fourth *Bagby* factors.

This case is entirely different than *Bagby* and *State v. Zamora*, 199 Wn.2d 698, 512 P.3d 512 (2022). In *Bagby*, the prosecutor asked nearly every witness about the defendant's "nationality," distinguished the defendant from other witnesses by race, and associated "whiteness with being American and Blackness as un-American," despite the fact that the charged crimes of residential burglary, fourth degree assault, and harassment had no connection with race. 200 Wn.2d. at 795-96.

Similarly, in *Zamora*, the prosecutor repeatedly raised issues of unauthorized immigration, crime at the border, and border security during jury selection for a trial in which the defendant was a Latino man despite the lack of any relevance or connection between issues of immigration and the charged crime of third degree assault. 199 Wn.2d at 701-23. In each of those cases, the prosecutor raised issues of race or nationality that had no relevance to the crimes charged or connection to the evidence,

indicating the reason for references to those topics was intended to improperly appeal to racial or ethnic bias against the defendants.

But in this case, the evidence established that the lifestyle changes Ms. Darraji made after moving to the United States were the motive for the murder, which is a proper basis for admission. *See, e.g., State v. Dhaliwal*, 150 Wn.2d 559, 579-80, 79 P.3d 432 (2003). The State introduced the evidence to prove, in a circumstantial case with no direct eyewitnesses to the murder, Mr. Darraji was the individual who killed Ms. Darraji and that he did so because of those lifestyle changes. The State did not admit any of the evidence to appeal to juror bias, but to prove beyond a reasonable doubt that Mr. Darraji committed the crime.

Second, this case presents a poor vehicle for review because the defense theory relied on the same cultural differences as a basis for pointing the finger at Mr. al Karawi,

who Ms. Darraji hit with a shoe in public just weeks before her murder, and who lived a block and a half from where her burning body was found. *See, e.g.*, RP 778-80, 1092, 1169, 1245, 1477, 1481-85, 1489, 1496, 1509-10, 1841, 1850-51, 1928, 2205, 2207, 2212-13; 2RP 65, 70, 81, 85, 108, 185. There has been no allegation in this case that defense counsel provided ineffective assistance on this basis.

This Court should decline review because this issue does not meet the criteria for review in RAP 13.4(b)(3). No constitutional issue is implicated where even under the race-based prosecutorial misconduct analysis, Mr. Darraji fails to demonstrate the State attempted to appeal to juror bias.

B. DIVISION THREE PROPERLY DECLINED REVIEW OF THE HEARSAY CHALLENGES BECAUSE THEY WERE NOT PRESERVED BELOW AND WERE INADEQUATELY BRIEFED ON APPEAL.

Mr. Darraji claims the trial court made several evidentiary errors related to admission, through Mr. Nahi, of Ms. Darraji's

hearsay statements about her fear and asserts Division Three's decision on this issue—declining review on issue preservation and inadequate briefing grounds—warrants review by this Court under RAP 13.4(b)(1), arguing it conflicts with binding precedent from this Court. Slip op. at 39-40; Pet. 5-6, 34-40.

Additional factual background demonstrates Division Three properly found Mr. Darraji's appellate arguments were not preserved at trial. Numerous pretrial motions were heard in this case before and during trial. As it relates to Mr. Nahi's testimony, the State moved in limine to permit testimony about Iraqi culture under ER 107 related to treatment of women and how certain facts or statements at issue in the case would be perceived in that culture. RP 205-07, 1884. Defense counsel specifically stated he did not object to the State introducing such evidence, but instead questioned whether proper foundation could be laid as to whether the witness had sufficient knowledge of the Darrajis' particular

tribe and its customs. RP 208-09. The trial court granted the State's motion but stated defense should object in trial if insufficient foundation was laid. RP 210. No foundation objection was lodged during testimony. RP 1525-37, 1540.

The State also moved to admit evidence of the kidnapping in Iraq and prior assaults Mr. Darraji committed against Ms. Darraji under ER 404(b), but the trial court denied the motion largely because, as Ms. Darraji was dead, no non-hearsay testimony could be produced to prove those assaults. CP 76, 137, 118-19, 344-45; RP 696-97.

Last, the State moved to admit Mr. Nahi's statements that the last time he saw Ms. Darraji, she was afraid for her life due to rumors being spread about her under the hearsay exception for then-existing mental state, which was relevant to whether Ms. Darraji believed Mr. Darraji's threat to kill her was a true threat. RP 1521-24. Mr. Darraji objected, agreeing it was

admissible for the harassment charge, but stating its admission for the murder charge would be prejudicial and violate the right to confrontation. RP 1523-24. The trial court held Mr. Nahi could testify to Ms. Darraji's statements about her fear and the reasons for her fear under *State v. Parr*, 93 Wn.2d 95, 606 P.2d 263 (1980), but that he could not relay any threats Ms. Darraji said Mr. Darraji made to her. RP 754-58.

Mr. Nahi's testimony included cumulative evidence about the rumors circulating about Ms. Darraji's behavior, Ms. Darraji expressing to him that she was afraid Mr. Darraji would kill her because of the seriousness of the rumors, and her belief Mr. Darraji was spreading those rumors. RP 1536-37, 1728, 1752, 1843-44, 1856-57, 2109-11.

After Mr. Nahi testified, defense counsel objected, arguing the State had violated the court's ruling by eliciting testimony of the actual threat Mr. Darraji made to kill

Ms. Darraji. RP 1539-40. The court overruled the objection, explaining the witness had testified only to Ms. Darraji's fear Mr. Darraji would kill her, not to his threat that he would kill her. RP 1541-42.

A limiting instruction was given, instructing the jury that the evidence of Ms. Darraji's fear could be considered only for the purpose of evaluating the harassment charge and not for any other purpose, which instruction the prosecutor reiterated in closing argument. RP 2164, 2193. Defense never moved to sever the counts for trial and never moved for a new trial.

On appeal, Mr. Darraji claimed that Mr. Nahi's testimony that Ms. Darraji believed Mr. Darraji was spreading the rumors about her violated the trial court's ER 404(b) ruling. App. Br. at 55. But the subject of the ER 404(b) motion and ruling, as stated above, was admission of Ms. Darraji's hearsay statements of her kidnapping in Iraq and that Mr. Darraji had physically abused

her. The source of the rumors was never a subject of discussion. *See* CP 118-19; RP 264-65, 696-97. Furthermore, Mr. Darraji did not object on these grounds at trial. *See* RP 1536. Division Three therefore properly declined to review this unpreserved issue. Slip op. at 37-40.

With respect to Mr. Nahi's testimony about Ms. Darraji's fear, Mr. Darraji's argument at Division Three was that her fear was irrelevant because the State ultimately presented insufficient evidence to establish that the specific threat to kill it relied on (the one Mr. Darraji made to Ms. Suwaed) was never communicated by Ms. Suwaed to Ms. Darraji. App. Br. at 49-58. In other words, the testimony was irrelevant because her fear was not connected to the specific threat that formed the basis for the harassment charge.

However, as Division Three properly found, Mr. Darraji did not object on these grounds at trial, so the issue was

unpreserved. In addition, on appeal, Division Three properly found that Mr. Darraji failed to explain why he was prejudiced by the admission of evidence that was explicitly limited to the harassment charge, which the State conceded needed to be reversed on sufficiency grounds, and where a jury is presumed to follow its instructions. Slip. op. at 39; *State v. Stein*, 144 Wn.2d 236, 247, 27 P.3d 184 (2001).

This claim also would have failed on the merits, had Division Three reached it because, even if the evidence had been admitted in error, not only was it cumulative of other non-hearsay testimony that Mr. Darraji spread such rumors, *see* RP 1728, 1752, 1843-44, 1856-57, but it also paled in comparison to the evidence that less than one month before killing Ms. Darraji, Mr. Darraji nearly got in a car accident while angrily yelling, “I will kill her, even if it takes me ten years,”

RP 1777, and also sent her family in Iraq messages that if she did not alter her behavior, she would get “the teeth”:

...what happened and what was said. I told her I’d leave the kid and (unintelligible) it went to her head. It went to her head and she’ll lose. She has one day to leave me alone and not do anything to me. After this day, on the second day, I am going to do things and she is going to lose things she doesn’t know she’ll lose. And she doesn’t have anything against me. Let her be warned. I send you and my aunt Yusra my regards and tell – tell her (unintelligible) and tell her to stop – to leave me alone.

Ex. 95-96; RP 1922-24, 1960-61, 2111.

Abu Mohammad, good morning, my dear. How are you? My dear, say hello to my aunt Yusra and tell her that Yasir says to let her tell (unintelligible) that this is a warning and not a threat. She shouldn’t play with the lion’s tail, because she’ll lose a lot of things that she doesn’t know she’ll lose. She’ll lose a lot of things and she doesn’t know yet. So, warn her not to play with me. (Unintelligible) and fuck Aqeel. I can deal with Aqeel or anyone who comes at me. I am not afraid of Aqeel or anybody. But I don’t want to deal with this – ahh- (unintelligible) Aqeel (unintelligible). Ibtihal (unintelligible) a request. Ibtihal told me to call her, that she wanted to talk to me (unintelligible) and sent me (unintelligible) on WhatsApp. I don’t want to deal with these

conversations. I'm not afraid of them, you know me, but I don't want to deal with this sort of conversation about what happened and rumors.

Ex. 97-98.

Review under RAP 13.4(b)(1) is not warranted on this issue because Division Three's decision does not conflict with precedent from this Court where review was declined due to lack of error preservation and inadequate briefing.

C. DIVISION THREE PROPERLY FOUND MR. DARRAJI FAILED TO PRESERVE OR ADEQUATELY BRIEF HIS RULE-BASED SPEEDY TRIAL CLAIM.

While Mr. Darraji argues review of his rule-based speedy trial claim is warranted under RAP 13.4(b)(2), which permits review where a court of appeals decision is in conflict with a published court of appeals decision, he focuses only on his claim that the trial court had insufficient evidence to grant a continuance and not on the reasons Division Three declined review. App. Br. at 6, 40-43. Division Three declined review of

this issue because it found both that Mr. Darraji failed to timely object under CrR 3.3 to the trial setting as required in *State v. Walker*, 199 Wn.2d 796, 513 P.3d 111 (2022), and that, having not provided the court with a speedy trial calculation demonstrating trial was set outside speedy trial, Mr. Darraji's briefing was inadequate for review. Slip op. at 34-35. Neither of these grounds for declining review conflict with appellate precedent. Review of this issue is not warranted under RAP 13.4(b)(2).

D. DIVISION THREE PROPERLY DECLINED REVIEW OF THE UNPRESERVED AGGRAVATOR UNANIMITY ISSUE WHERE MR. DARRAJI DID NOT ESTABLISH A MANIFEST CONSTITUTIONAL ERROR.

Mr. Darraji argues review of whether the jury was required to be given a unanimity instruction as to the facts underlying the destructive and foreseeable impact aggravator is

warranted under RAP 13.4(b)(3), arguing it presents a significant question of constitutional law.

However, Division Three declined review of this issue because Mr. Darraji raised this issue for the first time on appeal and then failed to establish a manifest constitutional error by failing to cite any applicable cases requiring unanimity as to facts underlying a sentencing aggravator. Declining review for failure to establish a manifest constitutional error where a party has cited no applicable authority in support of its position does not present a significant question of constitutional law. This Court should decline review finding the issue is not subject to review under RAP 13.4(b)(3).

E. DIVISION THREE PROPERLY FOLLOWED THIS COURT'S DECISION THAT AGGRAVATING FACTORS ARE NOT SUBJECT TO VAGUENESS CHALLENGES.

Mr. Darraji claims this Court should accept review of whether sentencing aggravators are subject to constitutional

vagueness challenges, arguing it presents a significant constitutional question under RAP 13.4(b)(3). Pet. 7-8. He is incorrect. Division Three properly found this Court settled this question in *Baldwin*, 150 Wn.2d 448, a decision all three divisions of the court of appeals have followed, and declined review on that basis. Slip op. at 47-51; *see State v. DeVore*, 2 Wn. App. 2d 651, 413 P.3d 58 (2018), *review denied*, 191 Wn.2d 1005, 424 P.3d 1216 (2018); *State v. Brush*, 5 Wn. App. 2d 40, 425 P.3d 545 (2018), *review denied*, 192 Wn.2d 1012, 432 P.3d 792 (2019); *State v. Lloyd*, 3 Wn. App. 2d 1060, 2018 WL 8642839, (unpublished and cited pursuant to GR 14.1), *review denied*, 191 Wn.2d 1016, 426 P.3d 746 (2018). Review is not warranted.

F. REVIEW OF MR. DARRAJI'S JUDICIAL FACT-FINDING CLAIM IS MOOT BECAUSE RESENTENCING IS REQUIRED.

Mr. Darraji claims this Court should accept review of his claim that the trial court engaged in improper judicial fact-finding when it imposed his exceptional sentence as it presents a significant constitutional question under RAP 13.4(b)(3). Pet. 8-9. Review of this issue would be an inefficient use of judicial resources because, as Division Three accepted the State's concession and reversed the harassment conviction for insufficient evidence, resentencing is required, rendering this issue moot. Division Three properly concluded this issue may be addressed at the trial court on remand. Slip op. at 52. Review by this Court is unnecessary at this stage in the proceedings.

G. DIVISION THREE PROPERLY DENIED MR. DARRAJI'S CLAIM THAT THE INFORMATION WAS DEFECTIVE AS TO THE AGGRAVATOR.

At Division Three, Mr. Darraji claimed for the first time in a statement of additional grounds for review, that the

information was defective as to the aggravator for failing to identify the “persons other than the victim” affected by the crime. Slip op. at 52-53. Division Three reviewed the issue and found that none of the cases cited by Mr. Darraji held that an information was defective for omitting facts supporting a charged aggravator. *Id.* While Mr. Darraji now claims this issue is a significant constitutional question warranting review under RAP 13.4(b)(3), the State disagrees, as the briefing below did not contain any authority that supported his claim. Review should be denied.

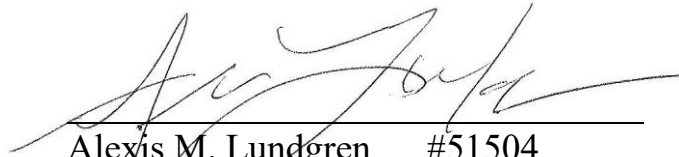
VII. CONCLUSION

The State respectfully requests this Court deny Mr. Darraji’s request for review.

This document contains 7,875 words, excluding the parts
of the document exempted from the word count by RAP 18.17.

Respectfully submitted this 24 day of July 2025.

PRESTON MCCOLLAM
Acting Official Prosecuting Attorney

A handwritten signature in black ink, appearing to read 'Alexis M. Lundgren', is written over a horizontal line.

Alexis M. Lundgren #51504
Deputy Prosecuting Attorney
Attorney for Respondent

IN THE SUPREME COURT OF THE STATE OF
WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

YASIR DARRAJI,

Petitioner.

NO. 104317-1

COA 39421-2-III

CERTIFICATE OF
MAILING

I certify under penalty of perjury under the laws of the State of Washington, that on July 24, 2025, I e-mailed a copy of the Answer to Defendant's Petition for Review in this matter, pursuant to the parties' agreement, to:

Gregory Link
greg@washapp.org

Jessica Wolfe
jessica@washapp.org

7/24/2025
(Date)

Spokane, WA
(Place)


(Signature)

SPOKANE COUNTY PROSE

July 24, 2025 - 3:41 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 104,317-1
Appellate Court Case Title: State of Washington v. Yasir Darraji
Superior Court Case Number: 20-1-10121-5

The following documents have been uploaded:

- 1043171_Answer_Reply_20250724154021SC199325_6869.pdf
This File Contains:
Answer/Reply - Answer to Petition for Review
The Original File Name was PFR - Answer - 072425 - 1043171.pdf
- 1043171_Motion_20250724154021SC199325_9522.pdf
This File Contains:
Motion 1 - Overlength Answer
The Original File Name was PFR - Mtn for Overlength- 1043171.pdf

A copy of the uploaded files will be sent to:

- greg@washapp.org
- jessica@washapp.org
- wapofficemai@washapp.org
- wapofficemail@washapp.org

Comments:

Sender Name: Kim Hatchie - Email: khatchie@spokanecounty.org

Filing on Behalf of: Alexis Michelle Lundgren - Email: alundgren@spokanecounty.org (Alternate Email: scpaappeals@spokanecounty.org)

Address:
1100 W Mallon Ave
Spokane, WA, 99260-0270
Phone: (509) 477-3662

Note: The Filing Id is 20250724154021SC199325